

AMENDED IN SENATE MARCH 29, 2006

SENATE BILL

No. 1830

Introduced by Senator Margett

February 24, 2006

An act to amend Section 1543 of the Penal Code, relating to corrections.

LEGISLATIVE COUNSEL'S DIGEST

SB 1830, as amended, Margett. Corrections: *inmate medical records*.

Existing law charges the Department of Corrections and Rehabilitation with the care and custody of persons sentenced to state prison. *Existing law sets forth the circumstances under which inmate medical records may be disclosed to law enforcement agencies.*

~~This bill would state the intent of the Legislature to regulate the maintenance of inmate health records.~~

This bill would provide that inmate medical records that are not privileged or confidential shall be made available, upon request, to a law enforcement agency that is investigating or prosecuting a crime committed by or against a person under the jurisdiction of the department.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1543 of the Penal Code is amended to
2 read:

1 1543. (a) Records of the identity, diagnosis, prognosis, or
2 treatment of any patient maintained by a health care facility
3 ~~which~~ *that* are not privileged records required to be secured by
4 the special master procedure in Section 1524, or records required
5 by law to be confidential, shall only be disclosed to law
6 enforcement agencies pursuant to this section, *as follows*:

7 (1) In accordance with the prior written consent of the patient;
8 or

9 (2) If authorized by an appropriate order of a court of
10 competent jurisdiction in the county where the records are
11 located, granted after application showing good cause therefor. In
12 assessing good cause, the court *shall do both of the following*:

13 (A) ~~Shall weigh~~ *Weigh* the public interest and the need for
14 disclosure against the injury to the patient, to the
15 physician-patient relationship, and to the treatment services;

16 (B) ~~Shall determine~~ *Determine* that there is a reasonable
17 likelihood that the records in question will disclose material
18 information or evidence of substantial value in connection with
19 the investigation or prosecution; or

20 (3) By a search warrant obtained pursuant to Section 1524.

21 (b) The prohibitions of this section continue to apply to
22 records concerning any individual who has been a patient,
23 irrespective of whether or when he or she ceases to be a patient.

24 (c) Except where an extraordinary order under Section 1544 is
25 granted or a search warrant is obtained pursuant to Section 1524,
26 any health care facility whose records are sought under this
27 chapter shall be notified of the application and afforded an
28 opportunity to appear and be heard thereon.

29 (d) Both disclosure and dissemination of any information from
30 the records shall be limited under the terms of the order to assure
31 that no information will be unnecessarily disclosed and that
32 dissemination will be no wider than necessary.

33 This chapter shall not apply to investigations of fraud in the
34 provision or receipt of Medi-Cal benefits, investigations of
35 insurance fraud performed by the Department of Insurance or the
36 California Highway Patrol, investigations of workers'
37 compensation insurance fraud performed by the Department of
38 Corrections *and Rehabilitation* and conducted by peace officers
39 specified in paragraph (2) of subdivision (d) of Section 830.2,
40 and investigations and research regarding occupational health

1 and safety performed by or under agreement with the Department
2 of Industrial Relations. Access to medical records in these
3 investigations shall be governed by all laws in effect at the time
4 access is sought.

5 (e) Nothing in this chapter shall prohibit disclosure by a
6 medical facility or medical provider of information contained in
7 medical records where disclosure to specific agencies is
8 mandated by statutes or regulations.

9 (f) This chapter shall not be construed to authorize disclosure
10 of privileged records to law enforcement agencies by the
11 procedure set forth in this chapter, where the privileged records
12 are required to be secured by the special master procedure set
13 forth in subdivision (c) of Section 1524 or required by law to be
14 confidential.

15 (g) *Records that are maintained by the Department of*
16 *Corrections and Rehabilitation that pertain to an inmate, ward,*
17 *or parolee shall be made available, upon request, to a law*
18 *enforcement agency that is investigating or prosecuting a crime*
19 *committed by or against a person under the jurisdiction of the*
20 *department.*

21 ~~SECTION 1. It is the intent of the Legislature to regulate the~~
22 ~~maintenance of inmate health records.~~